

CHEYENNE PATE §  
v. § CIVIL ACTION NO. 6:15cv62  
DIRECTOR, TDCJ-CID §

The Petitioner Cheyenne Pate, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 complaining of the legality of his conviction. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Pate was convicted on February 14, 2011, of possession of a prohibited item in a correctional facility, receiving a sentence of four years and six months, running consecutively to another sentence Pate was serving. He did not take a direct appeal but filed a state habeas corpus application on July application was dismissed as non-compliant with court rules on October 2, 2013. Pate filed another state habeas corpus application on March 10, 2014, but this application was denied by the Texas Court of Criminal Appeals on May 14, 2014.

Pate then sought federal habeas corpus relief. The Respondent filed an answer arguing that Pate's petition is barred by the statute of limitations, and Pate filed a reply to the answer.

After review of the pleadings, the magistrate judge issued a report recommending that the petition be dismissed with prejudice as barred by the statute of limitations. No objections were filed to the report; consequently, the parties are barred from *de novo* review by the district judge of those

findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the report of the magistrate judge. Upon such review, the Court has determined that the report of the magistrate judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a magistrate judge's report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.") It is accordingly

**ORDERED** that the report of the magistrate judge (docket no. 15) is **ADOPTED** as the opinion of the District Court. It is further

**ORDERED** that the above-styled application for the writ of habeas corpus is **DISMISSED WITH PREJUDICE**. It is further

**ORDERED** that the Petitioner Cheyenne Pate is **DENIED** a certificate of appealability *sua sponte*. Finally, it is

**ORDERED** that any and all motions which may be pending in this action are hereby **DENIED**.

**SIGNED this 28th day of October, 2015.**

  
MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE